

AN EXACT
ACCOUNT
Of the Whole
PROCEEDINGS

AGAINST THE
Right Reverend Father in GOD,
HENRY

Lord Bishop of *LONDON*,
Before the
Lord **CHANCELLOR**,
And the other
Ecclesiastical Commissioners.

LONDON,
Printed in the Year MDC LXXXVIII.

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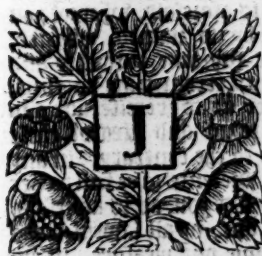
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Ecclesiastical Commissioners

LONDON

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THE
KING'S
ECCLESIASTICAL
Commission.



JAMES the Second, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To the Most Reverend Father in God, Our Right Trusty and Right Well-beloved Councelloz, William Lord Archbishop of Canterbury, Primate of all England, and Metropolitane. And to Our Right Trusty and Right Well-beloved Councelloz, George Lord Jefferyes, Lord Chancellor of England. And to our Right Trusty, and Right Well-beloved Cousin and Councelloz, Lawrence Earl of Rochester, Lord High Treasurer of England. And to Our Right Trusty, and Right Well-beloved Cousin and Councelloz, Robert Earl of Sunderland, President of Our Council, and Our Principal Secretary of State. And to the Right Reverend Father in God, Our Right Trusty and Well-beloved Councelloz, Nathaniel Lord Bishop of Durham. And to the Right Reverend Father in God, Our Right Trusty and Well-beloved Thomas Lord Bishop of Rochester. And to Our Right Trusty and Well-beloved Councelloz

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The KING'S Ecclesiastical Commission.

celloz, Sir Edward Herbert Kt. Lord Chief Justice of the Pleas, before Us to be holden, Assigned, Greeting. We for divers good weighty and necessary Causes and Considerations, Us hereunto especially moving, of Our meer Motion and certain Knowledge, by force and virtue of our Supream Authority and Prerogative Royal, do Assign, Haue, and Authorize by these Our Letters Patent, under the Great Seal of England, You the said Lord Arch-Bishop of Canterbury, Lord Chancellour of England, Lord High Treasurer of England, Lord President of Our Council, Lord Bishop of Durham, Lord Bishop of Rochester, and Our Chief Justice aforesaid, or any Three or more of you, whereof You the said Lord Chancellour to be one, from time to time, and at all times during Our pleasure, to Exercise, Use, Occupy and Execute under Us all manner of jurisdictions, priuiledges, & preheminencies in any wise touching or concerning any Spiritual or Ecclesiastical Jurisdictions, within this Our Realm of England, and Dominion of Wales, & to visit, reform, redress, order, correct and amend all such abuses, offences, contempts, and enormities whatsoever, which by the Spiritual or Ecclesiastical Lawes of this our Realm can or may lawfully be reformed, redressed, corrected, restrained, or amended, to the pleasure of Almighty God, and increase of virtue, and the conseruation of the peace and unity of this Realm. And we do hereby give and grant unto you, or any Three or more of you, as is aforesaid, whereof you the said Lord Chancellour to be one, thus by us named, assigned, authorized, and appointed, by force of our supream authority and prerogative Royal, full power and authority, from time to time, and at all times during our pleasure, under us to exercise, use and execute all the premises, according to the tenor and effect of these our Letters Patents, any matter or cause to the contrary, in any wise notwithstanding. And we do by these Presents give full power and authority unto you, or any Three or more of you, as is aforesaid, whereof you the said Lord Chancellour to be one, by all lawful ways or means from time to time hereafter during our pleasure, to enquire of all offences, contempts, transgressions, and misdemeanours done and committed, and hereafter done and to be committed, contrary to the Ecclesiastical Lawes of this our Realm; in any County, City, Borough, or other place or places exempt or not exempted, within this our Realm of England, and Dominion of Wales; and of all and every Offender or Offenders therein, and them, and every of them to order, correct, reform, and punish, by censures of the Church. And also we do give and grant full power and

and authoritie unto you, or any Three or more of you, as is aforesaid, whereof you the said Lord Chancellor to be one, in like manner as is aforesaid, from time to time, and at all times during our pleasure, to enquire of, search out, and call before you all and every Ecclesiastical person or persons, of what degree or dignity soever, as shall offend in any of the particulars before mentioned, and them, and every of them to correct, and punish for such their misbehaviours and misdemeanours, by suspending or depriving them from all promotions Ecclesiastical, and from all functions in the Church, and to inflict such other punishments or censures upon them, according to the Ecclesiastical Laws of this Realm. And further we do give full power & authoritie unto you, or any Three or more of you as is aforesaid, whereof you the said Lord Chancellor to be one, by virtue hereof, and in like manner and form as is aforesaid, to enquire, hear, determine, and punish all Incest, Adulteries, Fornications, Rapes, Misbehaviours, and disorders in Marriage, and all other grievances, great crimes or offences which are punishable, or reformatory by the Ecclesiastical Laws of this our Realm, committed or done, or hereafter to be committed or done, in any place exempt or not exempt, within this our Realm, according to the tenor of the Ecclesiastical Laws in that behalf: Granting you, or any Three or more of you as is aforesaid, whereof you the said Lord Chancellor to be one, full power and authoritie to order and award such punishment to every such offender, by censures of the Church, or other lawful ways, as is aforesaid; and further we do give full power and authoritie unto you, or any Three or more of you, as is aforesaid, whereof you the said Lord Chancellor to be one, all and every Offender and Offenders in any of the premises, and also all such, as by you, or any Three or more of you as is aforesaid, whereof you the said Lord Chancellor to be one, shall seem to be suspected persons in any of the premises, and them to examine, touching every or any of the premises which you shall object against them; and to proceed against them, and every of them as the nature and quality of the offence, or suspicion in that behalf shall require. And also to call all such Witnesses, or any other person or persons that can inform you concerning any of the premises, as you, or any Three or more of you as is aforesaid, whereof you the said Lord Chancellor to be one, and them, and every of them, to examine upon their corporal oaths, for the better tryal and opening of the truth of the premises, or any part thereof. And if you, or any Three or more of you, as is aforesaid, whereof you the said Lord Chancellor to be

be one, shall find any person or persons whatsoever obstinate or disobedient in their appearance before you, or any Three or more of you as is aforesaid, whereof you the said Lord Chancellor to be one, at your calling and commandment, or else not in obeying, or in not accomplishing your orders, decrees, and commandments, or any thing touching the premises or any part thereof, or any other branch or clause contained in this Commission, that then you, or any Three or more of you, as is aforesaid, whereof you the said Lord Chancellor to be one, shall have full power and authority to punish the same person and persons so offending, by Excommunication, Suspension, Deposition, or other Censures Ecclesiastical; and when any person shall be convicted or prosecuted before you as aforesaid, for any of the causes above expressed, at the instance and suit of any person prosecuting the offence in that behalf, that then you, or any Three or more of you as is aforesaid, whereof you the said Lord Chancellor to be one, shall have full power and authority to award such costs and expenses of the Suit, as well to and against the party, as shall prefer or prosecute the said offence, as to and against any party or parties that shall be convicted according as their Causes shall require, and to you in Justice shall be thought reasonable. And further our will and pleasure is, that you assume our well-beloved Subject William Bridgman Esquire, one of the Clerks of our Council, or his sufficient Deputy or Deputies in that behalf to be your Register, whom we do by these presents depute to that effect, for the Registering of all your Acts, Decrees, and Proceedings, by virtue of this our Commission; and that in like manner, you, or any Three or more of you, whereof you the said Lord Chancellor to be one, by your discretions shall appoint one or more Messenger or Messengers, or other Officer or Officers necessary and convenient to attend upon you for any service in this behalf. Our will and express commandment also is, That there shall be two paper Books indented and made, the one to remain with the said Register, or his sufficient Deputy or Deputies, the other with such person, and in such places as you the said Commissioners, or any Three or more of you, whereof you the said Lord Chancellor to be one, shall in your discretions think most fit and meet; in both which Books shall be fairly entered all the Acts, Decrees, and Proceedings made or to be made, by virtue of this our Commission. And whereas our Universities of Oxford and Cambridge, and divers Cathedral and Collegiate Churches, Colledges, Grammar Schools, and other Ecclesiastical Incorporations, have been erected, founded, and endowed by several of our Royal Progenitors, Kings and Queens of this Realm,

Realm, and some others by their charity and bounty of some of
 their Subjects, as well within our Universities as other parts and
 places, the Ordinances, Rules and Statutes whereof are either imbe-
 lled, lost, corrupted, or altogether imperfect. We do therefore give full
 power & authority to you, or any five or more of you, of whom we will
 you the forenamed the Lord Chancellor always to be one, to cause
 and command in our Name, all and singular the Ordinances, Rules
 and Statutes of our said Universities, and all and every Cathedral
 and Collegiate Churches, Colledges, Grammar Schools, and o-
 ther Ecclesiastical Incorporations, together with their several Let-
 ters- Patents, and other Writings, touching or in any wise
 concerning their several Creations and Foundations, to be brought
 and exhibited before you, or any five and more of you, as is aforesaid,
 whereof you the said Lord Chancellor to be one; willing,
 commanding, and authorizing of you, or any five or more of you, as
 aforesaid, whereof you the said Lord Chancellor to be one, upon
 the exhibiting, and upon diligent and deliberate view, search, and
 examination of the said Statutes, Rules, and Ordinances, Letters-
 Patents and Writings as is aforesaid, the same to correct, amend,
 and alter; and also where no Statutes are extant, in all or any of
 the aforesaid Cases, to devise and set down such good Orders and
 Statutes as you, or any five or more of you, whereof you the
 said Lord Chancellor to be one, shall think meet and convenient,
 to be by us confirmed, ratified, allowed, and set forth, for the
 better order and rule of the said Universities, Cathedral and Col-
 legiate Churches, Colledges, and Grammar Schools, erections,
 and foundations, and the Possessions and Revenues of the same,
 and as may best tend to the honour of Almighty God, increase of
 Virtue, Learning, and Unity in the said places, and the publick
 Weal and Tranquility of this our Realm. Moreover, our Will,
 Pleasure, and Commandment is, that you our said Commissioners,
 and every of you, shall diligently and faithfully execute this our
 Commission, and every part and branch thereof, in manner and
 form aforesaid, and according to the true meaning thereof, not-
 withstanding any appellation, prohibition, privilege, or exemp-
 tion in that behalf, to be had, made, pretended, or alleged by any
 person or persons resident or dwelling in any place or places exempt,
 or not exempt, within this our Realm; any Law, Statutes, Pro-
 clamations, or Grants, Privileges, or Ordinances, which be, or
 may seem contrary to the Premises notwithstanding. And for the
 better credit, and more manifest notice of your so doing, in the Exe-
 cution of this our Commission, our pleasure and commandment is,

that

that to your Letters missive, Procelles, Decrees, Orders, and Judgments, for or by you, or any Three or more of you, as is aforesaid, to be awarded, sent forth, had, made, decreed, given or pronounced, at such certain publick places as shall be appointed by you, or any Three or more of you, as is aforesaid, for the due Execution of this our Commission, you, or some Three or more of you as is aforesaid, whereof you the said Lord Chancellor to be one, shall cause to be put and fixed a Seal, Ingraven with a Rose and Crown, and the Letter J. and figure 2 before, and the Letter R. after the same, with a ring or circumference about the same Seal, containing as followeth, *Sigillum Commissionarium Regiæ Majestatis ad Causas Ecclesiasticas.* Finally, We will and command all and singular other our Ministers and Subjects in all and every place and places, exempt and not exempt, within our Realm of England, and Dominion of Wales, upon any knowledge or request from you, or any Three or more of you as is aforesaid, to them, or any of them, given or made, to be aiding, helping and assisting unto you, and to your commandments, in and for the due executing your Precepts, Letters, and other Procelles, requisite in and for the due Executing of this our Commission, as they, and every of them tender our pleasure, and will answer the contrary at their utmost perils. In Witness, &c.

The

The KING'S LETTER.

Dated Monday, June ~~the~~ 14th, 1686.

Delivered at *Fulham* on *Thursday*, being the 17th of the same *June* in the Afternoon, by Mr. *Atterbury* the Messenger.

JAMES R.

RIGHT Reverend Father in God, We greet you well. Whereas We have been Inform'd, and are fully Satisfi'd, that Dr. John Sharp, Rector of the Parish Church of St. Giles in the Fields, in the County of Middlesex, and in your Diocess, notwithstanding Our late Letter to the most Reverend Fathers in God the Archbishops of Canterbury and York, and Our Directions concerning Preachers, given at Our Court at Whitehall, the 15th of March, 1685. in the Second Tear of Our Reign; yet he, the said Dr. John Sharp, in Contempt of the said Orders, hath in some of the Sermons he hath since preached, presum'd to make unbecoming Reflections, and to utter such Expressions as were not fit or proper for him; endeavouring thereby to beget in the Minds of his Hearers an Evil Opinion of Us and Our Government, by insinuating Fears and Jealousies to dispose them to Discontent, and to lead them into Disobedience and Rebellion. These are therefore to require and command you immediately upon Receipt hereof, forthwith to Suspend him from further Preaching in any Parish Church or Chappel in your Diocess, until he has given Us Satisfaction, and Our further Pleasure be known herein.

And

And for so doing this shall be your Warrant: And so We bid you heartily Farewell. Given at Our Court at Windsor, the 14th Day of June, 1686. in the Second Year of Our Reign.

By His Majesties Command.

Sunderland.

The Bishop of London's Answer.

Sent by Dr. Sharp to the Earl of Sunderland, then at Hampton-Court, upon Fryday June 18. who could have no Answer.

To the Right Honourable, the Earl of Sunderland, Lord President, &c.

My Lord,

I *Always have, and shall count it my Duty to obey the King in whatever Commands He lays upon me, that I can perform with a safe Conscience: But in this, I humbly conceive, I am oblig'd to proceed according to Law; and therefore it is impossible for me to comply; because, tho' His Majesty commands me only to execute His Pleasure, yet in the Capacity I am, to do it, I must Act as a Judge; and your Lordship knows no Judge Condemns any Man before he has Knowledge of the Cause, and has Cited the Party. However, I sent to Mr. Dean, and acquainted him with His Majesties Displeasure, whom I find so ready to give*

Doctor Sharp's Petition.

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give all Reasonable Satisfaction, that I have thought fit to make him the Bearer of this Answer, from him that will never be unfaithful to the King, nor otherwise than

MY LORD,

Your Lordships most Humble Servant,

H. London.

On Sunday after Dr. Sharp carried a Petition to *Windsor*, which was not admitted to be read. Which is as follows.

To the King's most Excellent Majesty, The Humble Petition of *John Sharp*, Clerk

Sheweth,

THat nothing is so afflictive to Your Petitioner, as his Unhappiness to have Incurred Your Majesties Displeasure, which he is so sensible of, that ever since Your Majesty was pleased to give notice of it, he hath forborn all Publick Exercise of his Function, and still continues so to do.

Your Petitioner can with great Sincerity affirm, that ever since he hath been a Preacher, he hath faithfully endeavour'd to do the best Service he could in his Place and Station, as well to the late King, Your Royal Brother, as your Majesty, both by Preaching and otherwise.

And so far he hath always been from venting any thing in the Pulpit tending to Schism or Faction, or any way

B

to

Doctor Sharp's Petition.

to the Disturbance of Your Majesties Government, that he hath upon all occasions in his Sermons, to the utmost of his Power, set himself against all sorts of Doctrines and Principles that look that way: And this he is so well assured of, that he cannot but apprehend that his Sermons have been very much misrepresented to Your Majesty.

But if in any Sermon of his, any Words or Expressions have unwarily slipped from him, that have been capable of such Constructions, as to give Your Majesty Cause of Offence, as he solemnly professes he had no ill Intention in those Words or Expressions, so he is very sorry for them, and resolves for the future to be so careful in the Discharge of his Duty, that Your Majesty shall have Reason to believe him to be Your most Faithful Subject.

And therefore he earnestly Prayeth, that Your Majesty out of Your Royal Grace and Clemency, would be pleas'd to lay aside the Displeasure You have conceiv'd against Your Humble Petitioner, and restore him to that Favour which the rest of the Clergy enjoy under Your Majesties Gracious Government.

So shall Your Petitioner ever Pray, &c.

The

THE Proceedings, &c.

Upon Tuesday Aug. 3. the Commissioners opened their Commission, and immediately sent a Citation to Atterbury the Messenger, who upon Wednesday morning brought it to the Bishop of London at Fulham, for him to appear before the Commissioners, on Monday the 9th. of the same Month, and left a Copy of it Which is as follows.

THE CITATION.

By His Majesties Commissioners for Ecclesiastical Causes.

YOU and either of You, are hereby required to Cite and Summon the Right Reverend Father in God, Henry Lord Bishop of London, to appear Personally before Us, in the Council Chamber at Whitehall, upon the 9th. day of this Instant, at ten of the Clock in the Morning, to Answer to such Matters, as on His Majesties behalf shall then and there be objected against him. And of the due Execution hereof, you are to certify us at the day and time aforesaid: Given under Our Seal the third day of August. 1686.

To Thomas Atterbury, and Thomas Eddows, or either of them.

Munday, Aug. 9. 1686. At the Council Chamber at Whitehall.

The Ld. Chancellor. The Ld. Bp. of Duresme.

The Ld. Treasurer. The Ld. Bp. of Rochester.

The Ld. President. The Ld. Ch. Just. Herbert.

The Lord Bishop of London appeared, and the Lord Chancellor spoke to him as follows.

Ld. Ch. My Lord, you are not ignorant, I suppose, of the

King's Letter which was sent to the Clergy; My Lord of *Canterbury* has Communicated to you. You are here Charged not to have observ'd his Majesty's Commands in the Case of *Dr. Sharp*, whom you were ordered to Suspend, for going against the Orders of that Letter.

B. L. My Lord, I am much surpriz'd at what your Lordship tells me, and hope I have not disobey'd the King's Commands. Your Lordship cannot believe I did this without Advice, and if my Counsel have mis-led me, I hope my own Ignorance of the Law will plead so far in my Favour, as to render my Fault (if any) very Excusable.

L. Ch. My Lord, you know *Ignorantia Juris non Excusat*.

B. L. But if I have not offended willingly, it may palliate at least.

L. Ch. My Lord, we are not here to discourse, but to Examine why you did not obey.

B. L. I humbly beg a Copy of the Commission, and a Copy of my Charge.

L. Ch. Does your Lordship think my Lords are not very well satisfi'd upon what account they sit, and that they have power to judge your Lordship? A Copy is a thing never done; should we grant you a Copy, all that come before us would have the like, for we must do equal Justice to all. Besides, it is to be had at every Coffee-House.

B. L. My Lord, this is a New Commission, I cannot tell how to inform my self whether any thing that relates particularly to my Case, may not be found there. It is a Matter of high Concern. Besides, I am here under such Circumstances, as ought to make me very Cautious. I am a Peer, I am a Bishop: I hope your Lordships will take all into Consideration, and at least give me leave to read the Commission.

L. Ch. You need not doubt but your Quality, Station, and Family will be considered by their Lordships; but if you insist upon seeing the Commission, you must withdraw.

After a small respite of withdrawing, the Bishop and the Commissioners were call'd in again.

L. Ch. Their Lordships have consider'd of what your Lordship desir'd, and are of Opinion, that you shall neither have

a Copy of, nor see the Commission; neither will they give a Copy of the Charge. The Commission is upon Record.

B. L. My Lord, I must submit; but it will be hard to carry my Charge in my head: I may mistake.

L. Ch. It is a short Question, you may easily remember it: Why did you not obey the King's Commands?

B. L. It is a short Question; but may require a long Answer. I must beg time to advise with Counsel, and to have them plead.

L. Ch. God forbid else. But what time does your Lordship desire?

B. L. Your Lordship knows better than I, that it is the dearest time of the year, every body is out of Town with their Tenants in the Country, about their private Affairs.

L. Ch. My Lord, the Town is never so empty, but there will be Counsel enough, unless you can be satisfied with none but those that are abroad. But what time would you have?

B. L. Considering the time, and that there is not one Civilian in the Commons, I hope you will give me till towards the Term.

L. Ch. My Lord, 'twill never be; you cannot expect so long a delay.

B. L. I know not whether there be any Appeal from this Court. If therefore I am to stand or fall at this Blow, your Lordships will in Justice allow me the longer time to be fully prepar'd.

L. Ch. Does your Lordship expect that this Court will tell you whether there lyes an Appeal from it or no?

B. L. I did not ask the Question, only suppos'd it.

L. Ch. What Answer at present occurs to encounter your Reasons for longer time, is, that the King's Affairs will not suffer long time. But since you propose no less time, I will propose: what think you of a Week?

B. L. I can do nothing in a Weeks time.

L. Ch. Not to trouble your Lordship, and the Company, to withdraw again, I will ask my Lords whether it be not a sufficient time? He asked them one by one, and they all agreed in the Affirmative.

B. L.

B. L. I must submit; but I hope your Lordships will not be surpriz'd, if I am forc'd to desire longer time when I wait upon you again?

L. Ch. Their Lordships will not Capitulate.

B. L. My Lord, I only leave it with you, and hope there will be some Consideration of my Family's, and my own sufferings, and constant Loyalty, that it would not be an easie matter for me to be thought to question the King's Commands, where I can obey them.

Their Lordships adjourn'd till *Munday, Aug. 16. 1686.*

Aug. 16. 1686. The Bishop of *L.* appear'd.

L. Ch. My Lord, are you ready to give an Answer to the Question?

B. L. My Lord, I do assure you I have employ'd my time as well as possibly I could; but find that, for the Reasons I formerly mention'd, it was too short for me to prepare my self.

L. Ch. Has your Lordship nothing else to offer?

B. L. I do humbly offer this as my Request, that your Lordships would give me longer time: For I writ to several Considerable Counsel out of Town, none of which are come up; and those few that are here, the thing is so new to them, that they could not thoroughly consider matters in so short a time.

L. Ch. What time would you have?

B. L. I will not be unreasonable: 2^d 4th night.

L. Ch. Be pleas'd to withdraw.

After this, the Bishop was call'd in again.

L. Ch. My Lord, we have consider'd of your Request, and they Lordships are resolv'd to give no time for pleading to their Jurisdiction: They are well appriz'd by what Authority they sit here. If your Lordship has been told that any Court will admit of a Plea to their Jurisdiction, they have deceived you; therefore if that be your meaning, they will allow no time.

B. L. That is not all; I am not fully instructed for an Answer to the Question: I know not yet in what manner to Answer.

L. Ch.

L. Ch. We do not insist upon Forms and Manners, if your Lordship want nothing that is material.

B. L. I am sorry I did not so clearly express my self: I want time to prepare for a material Answer.

L. Ch. My Lord, I come hither on purpose for this business, and every body knows at this time where my Health obliges me to be.

B. L. I protest I have no design to trifle with you, for I am really not ready; and must therefore beg more time, if it may be allow'd.

L. Ch. Well, my Lords are willing to grant you a Fortnight, you will therefore be pleas'd to be here on *Tuesday* come fortnight, at Eleven in the Morning.

Here it must be observ'd, that the Bishop did in this time send his Proctor to their Register for a Copy of what Orders and other Minutes they had set down concerning his business, but it was refus'd, tho' his Counsel told him, it never was deny'd in any Court.

Tuesday Aug. 31. 1686.

L. Ch. My Lord, are you ready to give an Answer to the Question?

B. L. My Lords, I have taken the best care I could in so short a time, to be ready with an Answer to your Lordships Question; tho' I must confess it was a very great surprize to me, to find my self attack'd with so quick and sudden a return by a Citation, in a matter concerning that Letter which the whole World can bear me witness, I have been this whole Summer endeavouring with all the Power and Skill I had, to enforce to the strict observation of my Clergy. But before I can offer an Answer to the Question, I beg your Lordships leave to offer my Plea to your Jurisdiction, for I am told it is a Right every one has to make use of, when he finds it for his Advantage. I would not hazard being so impertinent, as to offer any thing upon my own Head; your Lordships gave me time to advise with Counsel, and they that are learned in the Laws of
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the Land, advise me to plead to your Jurisdiction, and will be ready to argue it.

L. Ch. My Lord, I told you before, my Lords would hear nothing to their Jurisdiction; and therefore if you have any thing to say to the Question, be pleas'd to let us know it.

B. L. My Lords, I shall offer nothing that is undutiful to the King, or disrespectful to your Lordships, and I beseech you to correct and pardon me, if unwittingly any thing should fall from me that is liable to Censure. I am far from disowning any part of the King's Supremacy, I acknowledge it, and am so bound to do in its just Extent over all Persons, and in all Causes; what I have to offer in Plea to your Jurisdiction is, That I conceive this Commission you act by is not good, as being contrary to an Act of Parliament, upon which Point I beg my Counsel may argue.

L. Ch. Your Lordship knows my Lords minds in this matter.

B. L. If then your Lordships over-rule me, I must beg leave to protest to my Right in this or any other Plea that may be for my advantage.

The Bishop of London's Plea which he would have given in, if the Lords Commissioners would have suffered it to be argued.

I Henry Bishop of London do declare and acknowledge, that the Kings Majesty is the only Supream Head and Governour of this Realm, and all other his Majesties Dominions and Countreies, as well in all Spiritual or Ecclesiastical Causes as Temporal. Nevertheless, I the said Bishop by Protestation not acknowledging any just or legal Authority in your Lordships (otherwise than as by Law I am bound) to question or censure me in any matter or thing Ecclesiastical whatsoever, Do offer and shew to your Lordships, That at the Parliament of King Charles I. of blessed Memory, late King of England, holden on the 3. day of November, in the sixteenth Year of his Reign, a certain Act and Statute was made, Entituled, [A Repeal of the branch of a Statute Primo Elizabethæ concerning Commissioners for Causes Ecclesiastical] setting forth, That in the Parliament holden in the First Year of the Reign of Queen Elizabeth, there was an Act made and established, Entituled, [An Act restoring to the Crown the ancient Jurisdiction

jurisdiction over the State Ecclesiastical and Spiritual.] And abolishing all Foreign Power repugnant to the same. In which Act, among other things, there is contained one Clause, Branch, Article, or Sentence, whereby it was Enacted to this effect, namely, That the said late Queens Highness, her Heirs and Successors, Kings or Queens of this Realm, should have full Power and Authority, by virtue of that Act, by Letters Patents under the Great Seal of England, to assign, name, and authorize, when, and as often as her Highness, her Heirs or Successors should think meet and convenient, and for such and so long time as should please her Highness, her Heirs or Successors, such person or persons, being natural born Subjects to her Highness, her Heirs or Successors, as her Majesty, her Heirs or Successors should think meet, to exercise, use, occupy, and execute under her Highness, her Heirs and Successors, all manner of Jurisdictions, Priviledges, and Preheminences in any wise touching or concerning any Spiritual or Ecclesiastical Jurisdiction within these her Realms of England and Ireland, or any other her Highnesses Dominions and Countreies, and to visit, reform, redress, order, correct, and amend all such Errours, Heresies, Schisms, Abuses, Offences, Contempts, and Enormities whatsoever, which by any manner of Spiritual or Ecclesiastical Power, Authority, or Jurisdiction, can or may lawfully be reformed, ordered, redressed, corrected, restrained, or amended to the pleasure of Almighty God, the increase of vertue, and the conservation of the Peace and Unity of this Realm. And that such person or persons so to be named, assigned, and appointed by her Highness, her Heirs or Successors after the said Letters Patents to him or them made and delivered as aforesaid, should have full Power and Authority by virtue of that Act and of the said Letters Patents under her Highness, her Heirs or Successors, to exercise, use, and execute all the Premises according to the Tenor and Effect of the said Letters Patents, any matter or cause to the contrary in any wise notwithstanding. And setting forth likewise, that, by the colour of some words in the foresaid branch of the said Act, whereby Commissioners are authorized to execute their Commission, according to the Tenor and effect of the Kings Letters Patents, and by Letters Patents grounded thereupon; the said Commissioners have, to the great and unsufferable wrong and oppression of the Kings Subjects, used to Fine and Imprison them, and to exercise other Authority not belonging to Ecclesiastical Jurisdiction, restord by that Act; and

divers other great mischiefs and inconveniencies have also ensued to the King's Subjects by occasion of the said branch; and Commissions issued thereupon, and the Executions thereof; and therefore for the repressing and preventing of the aforesaid abuses, mischiefs, and inconveniencies in time to come, It was by the said Act made at the said Parliament, of the said King Charles the First, Enacted, that the aforesaid Branch, Clause, Article, or Sentence contain'd in the said Act of Primo Elizabethæ, and every Word, Matter, and Thing contain'd in that Branch, Clause, Article, or Sentence, should from thenceforward be repeal'd, annul'd, revoke'd, annihilated, and utterly made void for ever; any thing in the said Act to the contrary in any wise notwithstanding. • And it was thereby also Enacted by the Authority aforesaid, that no Arch Bishop, Bishop, nor Vicar-General, nor any Ordinary whatsoever, nor any other Spiritual or Ecclesiastical Judge, Officer, or Minister of Justice, nor any other Person or Persons whatsoever, Executing Spiritual or Ecclesiastical Power, Authority, or Jurisdiction, by any Grant, License, or Commission of the King's Majesty, his Heirs or Successours, or by any Power or Authority derived from the King, his Heirs or Successours, or otherwise, should from and after the first day of August, in the year of our Lord 1641, award, impose, or inflict any Pain, Penalty, Fine, Amercement, or Imprisonment, or other Corporal Punishment upon any of the King's Subjects, for any Contempt, Misdemeanor, Crime, Offence, Matter or Thing whatsoever, belonging to Spiritual or Ecclesiastical Cognisance or Jurisdiction, or shall ex Officio, or at the instance or promotion of any other Person whatsoever, urge, enforce, tender, give, or minister unto any Church-Warden, Sides-Man, or other Person whatsoever, any Corporal Oath, whereby he or she shall or may be charg'd or oblig'd to make any presentment of any Crime or Offence, or to confess, or accuse himself or her self of any Crime, Offence, Delinquency, or Misdemeanor, or any other neglect, matter, or thing, whereby, or by reason whereof he or she shall or may be liable or expos'd to any Censure or Punishment whatsoever; upon pain and Penalty that every Person that shall offend contrary to this Statute, shall forfeit and pay treble damages to every Person thereby grieved, and the sum of 100l. to him or them who shall first demand and sue for the same; which said treble damages, and sum of a 100l. shall and may be demanded and receiv'd, and urg'd by action of Debt, Bill, or Plaint.

in any Court of Record, wherein no Priviledge, Effoyne, Protection, or Wager of Law shall be admitted or allow'd to the Defendant. And it was thereby further Enacted, That every Person who should once be convicted of any Act or Offence prohibited by that Statute, should for such Act or Offence be from and after such Conviction, utterly disabled to be or continue in any Office or Employment in any Court of Justice whatsoever, or to exercise or execute any Power, Authority, or Jurisdiction by force of any Commission, or Letters-Patents of the King, his Heirs or Successors. And it was thereby also Enacted, That from and after the first day of August, no new Court should be erected, ordain'd, or appointed, within this Realm of England, or Dominion of Wales, which should or might have the like Power, Jurisdiction, or Authority as the said High Commission-Court then had, or pretended to have; but that all and every such Letters-Patents, Commissions and Grants made or to be made by his Majesty, his Heirs or Successors, and all Powers and Authorities granted thereby; and all Acts, Sentences, and Decrees, to be made by virtue or colour thereof, should be utterly void and of none effect; which said Act of Parliament, made at the said Parliament of the said King Charles the First, I the said Bishop of London do Plead, and Object to and against your Lordships Jurisdiction, and pray your Lordships Judgment, whether your Lordships will think it fit, or ought to proceed any further herein against me the said Bishop of London.

B. L. I have another thing to beg your Lordships Advice and Judgment in. I have Right as a Bishop, by the most Authentique and Universal Ecclesiastical Laws, to be Try'd first before my Metropolitan, Precedent to any other Court whatsoever.

L. Ch. This is still to the Jurisdiction.

B. L. It is so, I confess; but yet so as to have a more particular relation to my Case.

L. Ch. Their Lordships are fully satisfy'd of their Authority in this Point. Besides your Lordship knows, there have been Presidents for this.

B. L. I only challenge the right of Law, and shall plead to it by Counsel if you please.

L. Ch. My Lord, if you have any thing to say to the question, you may be pleas'd to give your Answer.

B. L. If I am over-ruled in this, I must beg your Lordships Patience in one Plea more; your Lordships in this Commission, after the general words, are directed to proceed according to the Tenor of the Letters Patents, which say, that you shall first Proceed against all Persons offending, for matters done or to be done, by Censures, and other lawful ways; in the next place, you are to enquire of, and search out, and call before you, all Ecclesiastical Persons of what Degree or Dignity soever, as shall offend; and them and every of them to punish, &c. by Suspending; &c. Now I conceive, in the Capacity I am, you are only warranted to Try me for Offences after the Date of the Commission.

L. Ch. There are general Words which give Authority sufficient to look back.

B. L. But, My Lord, in matters of severity, the most favourable interpretation is to be given; and I know your Lordships will rather foregoe the extending the Jurisdiction to such.

L. Ch. Is this all your Lordship hath to offer?

B. L. If I may not Plead to any of these Points, I desire to put in my Answer.

L. Ch. Your Lordship be pleased to withdraw.

B. L. I desire to leave my Answer.

L. Ch. Be pleas'd to lay it down here, and withdraw.

B. L. Here the Answer was given in.

After a little while the Bishop was call'd in again.

L. Ch. My Lord, their Lordships have considered of your several Pleas, and are fully satisfied of their Jurisdiction and their Authority to Judge your Lordship; and therefore they desire to know, what you have to say in Answer to the Question?

B. L. I desire my Answer in Writing may be first Read.

L. Ch. Read it.

Mr. Bridgman Read the Answer, which was this.

TO the Question that was propos'd to me by your Lordships, viz. *Why did you not obey the King's Command, in his Letter concerning the Suspending Doctor Sharp?* I, Henry Bishop of London, do answer, that immediately upon receipt of his Majesties Letter from my Lord President, the Tenour whereof follows. viz.

[RIGHT Reverend Father in God, We greet you well. Whereas We have been Inform'd, and are fully Satisfied, that Dr. John Sharp, Rector of the Parish Church of St. Giles in the Fields, in the County of Middlesex, and in your Diocese, notwithstanding Our late Letter to the most Reverend Fathers in God the Archbishops of Canterbury and York, and Our Directions concerning Preachers, given at Our Court at Whitehall, the 15th of March, 1685. in the Second Year of Our Reign; yet he, the said Dr. John Sharp, in Contempt of the said Orders, hath in some of the Sermons he hath since preached, presum'd to make unbecoming Reflections, and to utter such Expressions as were not fit or proper for him; endeavouring thereby to begat in the Minds of his Hearers an Evil Opinion of Us and Our Government, by insinuating Fears and Jealousies to dispose them to Discontent, and to lead them into Disobedience and Rebellion. These are therefore to require and command you immediately upon Receipt hereof, forthwith to Suspend him from further Preaching in any Parish Church or Chappel in your Diocese, until he has given Us Satisfaction, and Our further Pleasure be known herein. And for so doing this shall be your Warrant: And so We bid you heartily Farewell. Given at Our Court at Windsor,

22 *The Proceedings against the Bishop of L.
Windsor, the 14th Day of June, 1686. in the Second
Year of Our Reign.]*

I took the best Advice I could get, concerning of Doctor Sharp, and was Inform'd, that the Letter being directed to me, as Bishop of London, to Suspend a Person under my Jurisdiction, I was therein to act as a Judge, it being a Judicial Act; and that no Person could by Law be Punish'd by Suspension, before he was call'd, or without being admitted to make his Defence. I thought it therefore my Duty, forthwith humbly to represent so much to my Lord President, that so I might receive his Majesties further Pleasure in that Matter: Nevertheless, that I might obey his Majesties Commands as far as by Law I could, I did then send for Doctor Sharp, and acquainted him with his Majesties Displeasure, and the occasion of it, by shewing him his Majesties Letter: But he having never been call'd to answer any such Matter, or make his Defence, and protesting his Innocence, and likewise declaring himself most ready to give his Majesty full Satisfaction therein, in order thereto I advis'd him to forbear Preaching, till he had apply'd himself to his Majesty, and at his request, I made him the Bearer of my Letter to my Lord President, waiting for his Majesties further Orders to proceed against him Judicially, in case he should not at that time give his Majesty the Satisfaction requir'd: And the said Doctor Sharp hath not since Preach'd within my Diocefs.

Henry London.

L. Ch. Has your Lordship any more to say?

B. L. My Lords, what I shall say my self will be very short, only a little farther to explain my meaning in this Answer. The words of his Majesties Letter are liable to two Constructions.

The

The first is a Legal and strict Sence of the word [*Suspend*] I must have Suspended Doctor Sharp, *ab officio*, because Preaching alone does not come under that Censure. In this Sence it was that I understood the King's Letter, and was Advis'd by my Counsel that it was a Judicial Act, and by Consequence could not be comply'd with, unless I had first Cited the Party, and heard the Cause; and in this I should have committed a fault. It is most excusable upon these two accounts: By all the Practice and Rules of Ecclesiastical Laws, the charge of Malice or Wilfulness is taken off from the Party, in case he has this to say for himself, that what he did, was *Juris Peritorum Consilio quibus cum in hac parte Communicavimus*. Now I consulted with the most proper Person Sir Tho. Exton my Chancellour, with whose Advice I wrote my Answer. But in the next place, it is the constant Rule in all the Books, that in case the Prince write to a Judge, and this Judge thinks he cannot lawfully obey the Command, he is to *rescribere & reclamare*, and in so doing, *tantum abest ut Principi deserviat quod is maxime serviat*. And the Rule goes further, that in case the Prince be not satisfied with the Answer, the Judge is not to apprehend a charge of Contempt for his refusal, but has a right to except *Jussio Secunda* by the Prince's Rescript, because in common Equity, no man in such a case is to be Judg'd obstinate before a second-refusal. I had no Rescript, but am taken up at the first rebound.

The other sence this word [*Suspend*] might be taken in, was at large for [*Silensing*.] In this I confess I did not apprehend it, because my Counsel turn'd my thoughts another way. But to shew that I was resolved to pay all the Duty I could to the King's Letter, which I am advis'd by my Counsel, was as strong Admonition as could be given, considering the Purport of the Letter; and besides, I advis'd him not to preach, till he had endeavour'd to know His Majesties further pleasure; which advice from a Judge, the Learned in the Laws tell me, is tantamount to an Admonition, and that if he had not submitted to it, I could have censur'd him for his disobedience; so that if this last was his Majesty's meaning, I have in effect obeyed the Letter,

Letter, which is all I shall say at present, and beg my Counsel may be heard to clear the matter in point of Law.

L. Ch. Withdraw.

After a short space the Bishop was call'd in again.

L. Ch. Call in my Lord of London's Counsel. (which was Dr. Oldish, Dr. Hedges, Dr. Brice, and Dr. Newton.)

Dr. Oldish. My Lords, the Question before your Lordships is, whether the Bishop of London has been disobedient to his Majesty's Command? Concerning which, it must be considered,

- 1st. What was Commanded.
2. What he has done in Obedience to it.
3. What Judgment ought to have been given by him.

It is apparent by the Letter, that the King did not take Cognizance of the Cause; for the Words are, *being informed that Dr. Sharp, &c.* So that it could not be an absolute Suspension; for that supposes a Proof of the Crime charged upon him. Then let us consider the Words themselves, *That you suspend him from preaching.*

Now, my Lords, we have not such a thing in our Law; so that the meaning must be only silencing of him. Where there is an Absolute Suspension, there ought to have been a Citation, Form of Proceedings, Judgment, and Decree. To Act otherwise, is contrary to the Law of God, of Nature, and of all Nations, in all Ages, and was never known in the World.

L. Ch. Doctor, I am loth to interrupt you, but I must tell you, this is an unnecessary Harangue; We know that it was not an absolute Suspension. But the Question is, whether the Bishop could Suspend him from preaching.

Dr. Oldish. Then, my Lord, I have gain'd that Point. If it were only a silencing of him, the Question is whether the Bishop did not Execute the King's Commands? I think he did it, and in such a Method as is observed in our Courts. When any Eminent Person is accus'd, the Judge sends to him by a Letter, and if he appears, and Complies with the Judges Order, the Law is satisfied.

tified. *Judicium Redditur in invitos non in Volentes.* The Bishop did send for Dr. Sharp, shew'd him the King's Letter, advis'd him not to preach till his Majesty had received satisfaction, in which he promis'd to observe his Lordships Command, and has not preach'd to this day, so that his Majesty's Command was in effect fulfill'd.

My Lords, there are the like Proceedings in the Common-Law; For if an Attorney takes a Man's word for his appearance, and he doth appear, 'tis the same thing as if he had been arrested, and there he has no Action against the Attorney.

L. Ch. Cujus contrariam est Lex. There lies an Action of escape against the Attorney.

Dr. Hedges. My Lords, the matter of Fact has been stated. And the Question is, whether the Bishop hath been disobedient to the King's Command? It appears that he has not, because upon Receipt of His Majesty's Letter, he required the Doctor not to preach, and he hath obeyed him. That which the King Commanded, *viz.* To Suspend him, the Bishop could not do, the Act of Suspension is a Judicial Act; the King writes to him as a Bishop, to Suspend as a Bishop and a Judge, which could not be done before a hearing of the Cause. If a Prince sends to a Person that is not a Judge, but only a Ministerial Officer, that Officer is to execute his Commands; But when the King Commands a Judge, he Commands him to Act as a Judge. This is no light matter which the Dr. is accus'd of, 'tis for preaching Sedition and Rebellion, which requires severe Censure: And if the Bishop as a Judge had Suspended him, he had began at the wrong end, for this had been Judgment before Process: In this case there ought to have been a Citation. Our Books give many instances, which would be too tedious to your Lordships. I will give this one. The Emperour proceeding against the King of Sicily, upon Information that he had receiv'd; and giving him no Citation; the King appeal'd to the Pope, who declar'd the proceedings to be void, and that it was against the Law of Nature, which is above all Positive Laws, to pass Sentence before Citation. This is the method of proceedings in all

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Courts,

Courts, and I humbly conceive it is, and will be the method of this Court; for otherwise the Bishop needed not to have been Cited before you. The Bishop has done what was his Duty; He was bound to return his Reasons to the King why he could not do that which was commanded, and to expect his farther Pleasure; which was done.

I affirm, if a Prince or a Pope Commands that which is not lawful, it is the Duty of a Judge *rescribere*, which is all he can doe.

Dr. Brise. The Question is *ut Supra*, a Citation is *Jure Gentium*, and can never be taken away by any positive Command or Law whatsoever.

The Bishop has obey'd the King so far, in that he did *Rescribere*, &c. expecting his Majesties further Pleasure. If the Bishop could have Suspended him, it must have been in *foro*; but in regard 'twas only Silencing him which was requir'd, it might be done in a private Chamber.

The Advice of the Bishop, is in some Sence an Admonition, which is a Judicial Act, and this was given by the Bishop, and obeyed by the Doctor.

Dr. Newton. My Lords, the Question is *ut Supra*, The Bishop has not been disobedient, as in Nature no Man can be required to do that which is impossible, so no Man can be oblig'd to do an unlawful Act, *id non fit, quod non Legitime fit*: This Rule obliges all Men in the World, in all Places, and at all Times.

The Charge against the Doctor is of a very high Nature, and he desir'd to be heard before he was Condemn'd. My Lords, the Bishops are *Custodes Canonum*, and therefore must not break them themselves. I affirm, that the Bishop was so far from being disobedient, that he was obedient to the King. For when he did *Rescribere*, and heard not the further Pleasure of the King returned: He ought to conclude, that the King was satisfied with what he had written, according to his Duty, and that the King had alter'd his Commands. A Citation as your Lordships have heard, is according to all Laws in all Places: In all Judicial Acts, there is something to be done according

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to Law, and somewhat according to the Discretion of the Judge. And for that Reason as well as others, the Offender ought to be Cited to appear before him. That which was in the Bishop's Power to do, that he has done, and it was in effect what the King commanded to be done.

L. Ch. Has your Lordship any more to say ?

B. L. I have but little more to say. I suppose my Counsel have satisfied your Lordships, that in the severest Construction, Malice or wilful Disobedience could not be imputed to me. But as my Lord Chancellor has now explain'd it to Doctor *Oldish*, that the King's meaning was only to [*Silence*] they have made plain to your Lordships, that I have effectually obeyed his Majesties Commands; and if in any Circumstance I have been wanting, I am ready to make reparation by performing that likewise, and to beg his Majesties Pardon.

L. Ch. Withdraw.

After an hour and better stay, the Bishop was called in again, and appointed to attend their Lordships on Monday following, in the Morning, being the 6th. of September.

B. L. My Lord, before I go, I would beg the Minutes may be read, for fear of any mistake.

L. Ch. Their Lordships will do you no injury, nor take advantage.

B. L. It is not out of distrust of your Lordships; but since you proceed in a summary way, and *ex tempore*, there may happen some slip of a Pen, that may more easily be corrected now than afterwards.

L. Ch. My Lord, I know no Minutes they keep.

Monday Sept. 6. 1686.

After waiting near two hours, Mr. Bridgman was at last sent out, who in less than half an hour brought the Sentence under Seal. Then the Bishop was called in.

L. Ch. Their Lordships have considered of what your Lordship said last day, and what your Counsell urged, and have proceeded to Sentence.

B. L. Will you give me leave to say something?

L. Ch. No, my Lord; you must first hear the Sentence read.

Then Mr. Bridgman, their Lordships Register, was ordered to read the Sentence to the Bishop, as followeth.

The

The SUSPENSION.

By his Majesty's Commissioners for Ecclesiastical Causes.

WHereas Henry Lord Bishop of London hath been Conven'd before us, for his Disobedience and other his Contempts mention'd in the Proceedings of this Cause, And the said Lord Bishop of London being fully heard hereupon, We have thought fit, after mature Consideration of the Matter, to proceed to this our definitive Sentence, Declaring, Decreeing, and Pronouncing, that the said Lord Bishop shall for the said Disobedience and Contempts be suspended during his Majesty's pleasure. And accordingly we do by these Presents Suspend him, the said Henry Lord Bishop of London, peremptorily admonishing and requiring him hereby to abstain from the Function and Execution of his Episcopal Office, and from all Episcopal and other Ecclesiastical Jurisdiction, during the said Suspension, under pain of deprivation, and removal from his Bishoprick. Given under our Seal the 6th. of September. 1686.

This

This is a True Copy.

William Bridgman, Register.

L. Ch. Withdraw, Gentlemen.

B. L. Have your Lordships any further service to command me?

L. Ch. No.

The Bishop would have spoken before the Sentence was read, to have recapitulated the heads of his Case, and to have offered full proof of his compliance in silencing *Dr. Sharp*; and to have desired, since their Lordships had hitherto been his Accusers and Judges, they would at last, according to the usual Custom, have been his Counsel, and ordered their Advocate to lay down the nature of the Crime, the Law it offended, and the Law it was to be punished by, that he might have given in his Exceptions. But no speaking was allowed 'till the Sentence was read, and it had been a folly to speak afterwards.

FINIS.

